

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6825

Joint Petition of Citizens Communications Company)
("Citizens") and Vermont Electric Power Company, Inc.)
("VELCO") for a certificate of consent for the proposed)
sale of certain transmission assets of Citizens to VELCO)

Hearing at
Montpelier, Vermont
July 21, 2003

Order entered: 8/19/2003

PRESENT: Michael H. Dworkin, Board Chairman
 David C. Coen, Board Member
 John D. Burke, Board Member

APPEARANCES: Aaron Adler, Esq.
 for the Vermont Department of Public Service

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 for Central Vermont Public Service Corporation

I. INTRODUCTION

In this Order the Public Service Board ("Board") approves the Joint Petition submitted by Citizens Communications Company ("Citizens") and Vermont Electric Power Company, Inc. ("VELCO"), pursuant to 30 V.S.A. §109, for Citizens to sell the majority of its transmission

assets to VELCO. We also approve a Stipulation entered into among Citizens, VELCO, the Vermont Department of Public Service ("Department"), and Citizens' transmission customers. (The Stipulation is attached hereto as Attachment A.) The Stipulation resolves all issues raised by the proposed sale to VELCO.

On March 28, 2003, Citizens and VELCO submitted a Joint Petition for Citizens to sell certain of its transmission assets to VELCO. The Petition was supported by prefiled testimony and exhibits of Eugene Shlatz and Gary Parker. Included in the exhibits was a Purchase and Sale Agreement between Citizens and VELCO, along with related exhibits and schedules.

The Board held a prehearing conference on April 9, 2003, and set a procedural schedule for reviewing the Joint Petition. At the prehearing conference the Board granted Motions to Intervene by Central Vermont Public Service Corporation ("CVPS") and Vermont Marble Power Division of OMYA, Inc. ("Vermont Marble"). On April 25, 2003, the Vermont Electric Cooperative, Inc. ("VEC") moved to intervene, and the Board granted that Motion on May 9, 2003.

On June 20, 2003, the parties submitted a Stipulation entered into by Citizens, VELCO, the Department, CVPS, Vermont Marble, Barton Village, Inc., Electric Department, the Village of Orleans Electric Department, and the Village of Enosburg Falls Water & Light Department, Inc.¹

Notice of a Technical Hearing was sent on July 7, 2003. A Technical Hearing was held as scheduled on July 21, 2003, at 10:30 a.m. at the Public Service Board Hearing Room, Third Floor, Chittenden Bank Building, 112 State Street, Montpelier, Vermont. At the Hearing, the prefiled testimony and exhibits were entered into the evidentiary record, along with several other exhibits, including the Stipulation, which was labeled Joint Exhibit-1. At the hearing the parties also addressed five questions that had been posed by the Board in a Memorandum dated July 18, 2003. No one appeared in opposition of the Joint Petition.

On August 5, 2003, Citizens submitted a draft final order.

1. Barton Village, Inc., Electric Department, the Village of Orleans Electric Department, and the Village of Enosburg Falls Water & Light Department, Inc., were not parties in this docket. However, these three villages are transmission customers of Citizens and thus have an interest in the transaction that is the subject of this docket and of the Stipulation.

Based on the Stipulation of the parties and our review of the evidence in the record, we conclude that the Joint Petition should be approved, for the reasons set forth below. Accordingly, we consent to the transfer from Citizens to VELCO of the transmission assets identified in Exh. CCC-ELS-6 under the terms and conditions described in the Joint Petition, testimony, and exhibits, as modified by and subject to the terms and conditions of the Stipulation.

II. FINDINGS

Based on the substantial evidence of record and the testimony presented at the hearing, the Board hereby makes the following findings in this matter. To the extent that these findings are inconsistent with any proposed findings, such proposed findings are denied.

1. VELCO and Citizens are "companies" as defined by Section 201 of Title 30, Vermont Statutes Annotated, and as such each is subject to the Board's jurisdiction pursuant to Section 203 of Title 30. Joint Pet. at 1.

2. VELCO's offices are located at 366 Pinnacle Ridge Road, Rutland, VT 05701. Joint Pet. at 1.

3. Citizens' offices are located at High Ridge Park, Stamford, CT 01905 and 144 Citizens Road, Newport, VT 05855. Joint Pet. at 1.

4. VELCO owns, operates, and plans for the maintenance, upgrade, and expansion of Vermont's bulk electric transmission system network (115 kV and above). Joint Pet. at 2.

5. Citizens owns and operates the Vermont Electric Division, an electric distribution and transmission system serving five counties in northern Vermont. Joint Pet. at 1.

6. On March 18, 2003, Citizens and VELCO executed a Purchase and Sale Agreement ("PSA") for the sale of certain of Citizens' transmission assets located in Vermont, including its entire 120 kV transmission line, a portion of its 46 kV transmission lines and three transmission substations: the Border Substation; the Highgate Substation; and a portion of the Newport Substation. Shlatz pf. at 4. Citizens and VELCO submitted the PSA to the Board for approval as part of their Joint Petition.

7. Citizens is selling its transmission assets to VELCO as part of Citizens' ongoing initiative to divest all of its non-telecommunications properties, including its electric properties

in Arizona, Hawaii, and Vermont. The divestiture is part of Citizens' plan to direct its resources to its telecommunications businesses. Shlatz pf. at 16.

8. VELCO's ownership of a 115 kV line from Highgate to Irasburg would create a 115 kV looped transmission system in the northern part of the State, and thus is a logical addition to the VELCO system. VELCO's acquisition of the transmission assets from Citizens helps complete that looped system and is consistent with VELCO's overall mission to own, operate, and maintain the transmission network operated at 115 kV and above in Vermont. The Northern Loop Project, of which Citizens' facilities are an essential part, will provide the backup necessary to support the loads in northern Vermont for typical line outage contingencies. Parker pf. at 2 – 3.

9. It will be less expensive for VELCO to purchase Citizens' transmission assets than to build a new 115 kV line between Highgate and Irasburg. VELCO has estimated that the cost of new construction would be on the order of \$23 million using conservative estimates. This assumes \$400,000 per mile for single-circuit 115 kV construction including the procurement and clearing of new rights of way for the approximately 58 miles between Irasburg and Highgate. Parker pf. at 4.

10. In addition to the PSA, Citizens and VELCO also have entered into a Bill Back Agreement governing certain 46 kV facilities that Citizens will sell to VELCO and then essentially lease back from VELCO. Continued access by Citizens to these facilities is necessary for Citizens (or a successor company) to provide service to its retail and wholesale customers in Vermont. Shlatz pf. at 4.

11. Citizens and VELCO also have entered into an Operating and Maintenance Agreement which governs how VELCO will operate the transferred assets to enable Citizens (or a successor) to perform under its existing power supply contracts and transmission tariffs. Shlatz pf. at 4–5.

12. The PSA is conditioned on receipt of a Certificate of Public Good ("CPG") in Docket No. 6792, the Northern Loop Project. Exh. CCC-ELS-3 at 16. The Board issued a CPG for the Northern Loop Project on July 17, 2003.²

13. The transmission assets Citizens proposes to sell to VELCO include:

- (a) Approximately three miles of a single-circuit 120 kV transmission line between the Canadian border at Derby Line and Derby, Vermont;
- (b) Approximately 29.4 miles of a double-circuit 120 kV transmission line between Derby and Richford, Vermont. On this segment both circuits are constructed at 120 kV, but one circuit is operated at 46 kV;
- (c) Approximately 6.47 miles of a single-circuit 46kV transmission line located between the Moshers Tap switching structure in Newport and Irasburg, Vermont;
- (d) Approximately 23 miles of a single-circuit 120 kV transmission line between the termination of the double-circuit 120/46kV line at Citizens' Richford substation and Citizens' Highgate substation;
- (e) All assets located at Citizens' Border Substation;
- (f) All of the 120 kV and some of the 46 kV assets located at Citizens' Newport transmission switchyard substation in Newport, Vermont;
- (g) All assets located at Citizens' Highgate substation;
- (h) A single 120/46 kV transformer that Citizens owns as a spare to back up similar devices at its Highgate and Newport substations; and
- (I) Major and minor spare equipment.

Shlatz pf. at 6–10.

14. Citizens will retain ownership of certain 46 kV lines; its substations other than the Border Substation, the Highgate Substation, and a portion of the Newport Substation; its distribution system; its general plant; and its generation assets. Citizens will also retain its obligations to provide transmission service under its major wholesale transmission arrangements, Block Loading Facilities Transmission Agreement ("BLFTA") and FPC-10 rate schedules and

2. Docket No. 6792, Order of 7/17/03.

the Open Access Transmission Tariff. Citizens has petitioned the Board for approval to sell to VEC its system other than the assets to be transferred to VELCO, as well as its transmission obligations, pursuant to the Purchase and Sale Agreement which is pending before the Board in Docket Nos. 6850 and 6853. That sale has not been approved. Tr. 7/21/03 at 31 (Behrns).

15. Pursuant to the PSA, Section 3.1, the purchase price for the transmission assets was set at the net book value of the assets as of the closing, minus \$1,208,159. Exh. CCC-ELS-3 at ¶ 3.1. The net book value as agreed by the parties will be approximately \$8.6 million, depending on the depreciation applied to the assets to be transferred as of the date of closing. Shlatz pf. at 11.

16. The net book value of the assets to be sold has been determined by collectively taking the original cost of each asset and subtracting accumulated depreciation associated with the asset. Shlatz pf. at 11. The original cost data was taken from the independent audit of Citizens' transmission and distribution facilities, which was required by the Board in Docket Nos. 5841/5859 and performed by Management Resources International ("MRI"). The MRI audit subsequently was the subject of a Settlement Agreement among all the parties to Docket Nos. 5841/5859 (the "Docket 5841/5859 Settlement"). The Docket 5841/5859 Settlement was approved by the Board on June 18, 2003. In the June 18, 2003, Order, Citizens was required to correct its plant inventory as suggested by the Board's Special Master in Docket Nos. 5841/5859, although these corrections will not change the bottom-line values presented in the Docket 5841/5841 Settlement. Order at 7.

17. In terms of selecting the appropriate value for accumulated depreciation to be netted against the original cost, for purposes of the sale to VELCO,³ the parties have agreed that a calculated depreciation reserve should be used corresponding to the original cost values of the

3. For other purposes, the parties have agreed that actual depreciation reserve should be used. For example, in Citizens' most recent rate case, the Company used the MRI audit results, as modified by the 5841 Settlement, to establish gross plant, but then used its actual depreciation reserve as an offset to arrive at net plant in service. Likewise, the 5841 Settlement requires that actual depreciation reserve be used in setting retail and wholesale rates. However, the parties to the 5841 Settlement specifically agreed that the terms of that Settlement would not preclude the Board from using a calculated depreciation reserve for purposes of establishing net book value in the context of the sale to VELCO. *See* Order Re: Transmission and Distribution Audit Settlement, Docket Nos. 5859/5841, entered June 18, 2003, at 6-7.

assets being transferred as reflected in the MRI audit as modified by the 5841 Settlement. Shlatz pf. at 11–12, including Table 1; exh. Joint-1 at ¶ 2. The calculated depreciation reserve is approximately \$1,600,000 less than the actual accumulated depreciation presently on Citizens' books in connection with the assets to be transferred. Thus, using the calculated depreciation reserve results in an increase of approximately \$1,600,000 in the purchase price for VELCO as compared to using the actual depreciation reserve. Shlatz pf. at 13; exh. Joint-1 at ¶ 2. This outcome is justified because VELCO's books should correctly reflect the value of the assets it is acquiring and VELCO's ratepayers represent a different pool of ratepayers from those who paid the entire actual depreciation reserve. Tr. 7/21/03 at 27–28 (Behrns).

18. To set the purchase price for VELCO, the net book value has been further reduced by \$1,208,159. This amount is to compensate VELCO for two types of costs. First, \$1,200,000 reflects VELCO's estimate of its carrying costs, including taxes, on the amount it will have paid to Citizens but will not be able to recover in transmission rates during the eighteen-month timeframe in which it will construct the Northern Loop Project. The remaining \$8,159.00 reflects a credit to VELCO equivalent to the net book value of approximately 2.4 miles of distribution conductor, insulators, cross-arms, and associated hardware between Irasburg and Moshers Tap. This credit is provided to reimburse VELCO for the current net book value of the distribution line from Irasburg and Moshers Tap that VELCO will reconstruct but that Citizens will own after the Northern Loop upgrades are completed. Shlatz pf. at 15; Parker pf. at 3–4.

19. The parties have agreed that the difference between the actual accumulated depreciation reserve and the calculated depreciation reserve, approximately \$1,600,000, should be refunded by Citizens to its customers. The parties agreed that seventy-five percent of the refund shall go to retail customers and twenty-five percent to transmission customers. Exh. Joint-1 at ¶ 2. Citizens will reduce the balance remaining on its books in its depreciation reserve by an amount equivalent to the refund. *Id.* These actions are justified for several reasons. First, the difference between the two reserves results from a remedy previously imposed by the Board to address past overpayments by Citizens' ratepayers, and returning that difference to those ratepayers ensures that they obtain the benefit of that remedy. Second, returning that difference at the earliest possible time increases the likelihood that those who actually paid the

overpayments will receive the refund or a portion thereof. Third, the end result is that the books of Citizens and VELCO will more accurately reflect the value of the assets. TR. 7/21/03 at 27–29 (Behrns).

20. Citizens agreed that it will make refunds to retail ratepayers by applying a credit to the bills of Citizens' current retail customers based on each retail customer's proportionate annual kWh usage of all retail customers over the most recent twelve-month period. Citizens has agreed to post the credit on customers' bills no later than the first complete monthly billing period following the closing of the sale to VELCO and to continue to show the credit on the bill of each customer until either the credit is exhausted or six months have passed. After six months, if a credit remains and exceeds \$5.00, Citizens will issue a check to the customer for the remaining balance; if after six months there is a balance of \$5.00 or less, that balance will be cleared from the customer's bill without issuance of a check. Exh. Joint-1 at ¶ 2. The Stipulation also requires Citizens to submit filings to the Board concerning the refund to retail ratepayers. *Id.* at ¶ 3.

21. As to the disposition by the transmission customers of their twenty-five percent share of the refund from Citizens, the parties have agreed as follows: Vermont Marble and the Villages shall apply the proceeds of the refund each receives for the benefit of the retail customers of each, and each shall file a proposal with the Board explaining how it will apply such refund. In the case of Vermont Marble, such application shall be of the portion of the refund properly allocated to Vermont Marble's retail ratepayers. CVPS shall apply one-half of its share of the refund it receives to reduce one or more regulatory asset accounts, and it may use the other half in its discretion; however, such other half will apply against the earnings cap currently in place pursuant to Docket 6460. Exh. Joint-1 at ¶ 6.

22. In addition to refunding twenty-five percent of the \$1.6 million to transmission customers, Citizens also has agreed to make a single payment to its transmission customers of \$200,000, which represents an approximation of the present value of a penalty that currently is included in its FERC rate formulas.⁴ Thus, the transmission customers will receive payments

4. A number of the terms in the parties' Stipulation address issues related to FERC rates and tariffs that are not subject to the Board's jurisdiction. The parties indicated that inclusion of FERC issues in a stipulation in this docket was a result of the parties' desire to resolve all issues raised by the proposed sale to VELCO in a single stipulation.

(continued...)

totaling approximately \$600,000, consisting of the refund of 25% of \$1,600,000 (\$400,000) plus a payment of \$200,000. Exh. Joint-1 at ¶¶ 2, 8; exh. CVPS-1.

23. Payments to transmission customers will be allocated among Citizens' transmission customers based on the percentage determined from the ratio of each transmission customer's percentage of contract load during that period. Thus, under the Stipulation, the approximate totals to be received by the transmission customers are: CVPS - \$382,838; Vermont Marble - \$19,141; Barton - \$48,502; Enosburg - \$83,812; and Orleans - \$65,704. The transmission customers have agreed to this allocation. Exh. CVPS-1; letter from CVPS to Board dated July 29, 2003.⁵

24. The parties' Stipulation includes adjustments to the BLFTA and FPC 10 rate schedules, and Citizens' Open Access Transmission Tariff, all of which are FERC-approved tariffs that govern transmission service by Citizens to the transmission customers. The parties have reached agreements regarding cooperation with respect to such filings and amendments as are necessary at FERC to accomplish the adjustments to the FERC rate formulas described in the Stipulation.

25. We find that the sale as proposed will result in many benefits to ratepayers in Vermont. First, the sale is a necessary predicate to VELCO's Northern Loop Project, which will improve reliability, efficiency, and performance of the transmission system in northern Vermont, as explained in our Order in Docket No. 6792.

26. In addition, Citizens' transmission customers will realize reduced transmission costs as a result of the sale. Even considering the increase in the transmission rate from VELCO as a result of its acquisition of these transmission facilities, transmission customers will realize net savings that are estimated at \$394,000 for 2004. Exh. Joint-2.

27. Citizens' retail customers likewise should realize a reduction in transmission costs as a result of the sale. Those savings have been estimated to be approximately \$500,000 annually,

4. (...continued)

Those issues that are within FERC's jurisdiction will be filed at FERC as part of the application for FERC approval for the transfer of transmission assets to VELCO. Tr. 7/21/03 at 39–40.

5. Following the hearing on July 21, 2003, CVPS filed a letter clarifying that the amount to be applied to reduce regulatory assets is one-half of the portion of the \$1.6 million allocation it receives, or approximately \$127,000. Letter from CVPS to the Board, dated July 22, 2003.

on a cost-of-service basis. These savings reflect the reduced transmission revenues that will result from the sale to VELCO. Shlatz pf. at 18.

III. DISCUSSION AND CONCLUSION

We conclude that the proposed sale, as modified and conditioned by the Stipulation, is consistent with the requirements of 30 V.S.A. § 109 and will promote the general good of the State. The sale offers many benefits to many parties. First, VELCO and its customers benefit, as the acquisition of the Citizens transmission assets will enable VELCO to complete its Northern Loop Project. We reviewed the Northern Loop Project in detail in Docket No. 6792, and issued a Certificate of Public Good for that project on July 17, 2003. In our Order, we concluded that the Northern Loop Project would improve the reliability of the electrical systems in the northern part of the state by creating a looped system that will allow VELCO to serve areas in northern Vermont from multiple paths, as opposed to relying upon single radial transmission lines.⁶

In addition, Citizens' current transmission customers realize significant financial benefits from the sale of the Citizens' assets to VELCO. Although the transmission customers will pay slightly more to VELCO for transmission service after the sale, those increased costs are more than offset by the decreases in the cost of transmission service from Citizens. The parties have estimated that savings in 2004 to Citizens' transmission customers will be approximately \$394,000, assuming a closing date of October 31, 2003. Such savings should continue into the future.⁷

The retail customers of Citizens (or a successor company) will also realize reduced transmission costs, estimated to be \$500,000 annually on a cost-of-service basis. These savings take into account reduced transmission revenues as a result of the sale to VELCO.

Finally, Citizens' agreement to refund the difference between the actual depreciation reserve on its books and a calculated reserve that corresponds to the assets to be transferred results in a direct monetary benefit to both its retail and transmission customers.

6. Docket No. 6792, Order of 7/17/03 at 33.

7. Tr. 7/21/03 at 16.

In addition to approving the sale to VELCO, under the terms of the Purchase and Sale Agreement, as modified by the Stipulation, we also find that the Operating and Maintenance Agreement and the Bill Back Agreement are in the public good. Both agreements are necessary to allow Citizens (or a successor) to continue to serve its retail customers. The Bill Back Agreement gives Citizens (or a successor) access to the transferred transmission assets to enable it to continue to perform under its power contracts and transmission tariffs, and it compensates VELCO for that access at a price that corresponds to VELCO's cost to provide the service. The Operating Agreement creates efficiencies, and thus cost savings, by having a single entity — VELCO — perform maintenance on facilities that will be jointly used.

IV. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The proposed sale of transmission assets in accordance with the evidence and testimony submitted in this proceeding will promote the general good of the State of Vermont in accordance with 30 V.S.A. § 109 and a Certificate of Consent shall be issued.
2. The sale of transmission assets by Citizens Communications Company ("Citizens") to Vermont Electric Power Company, Inc., as described in the evidence and testimony in this proceeding, is approved.
3. The Bill Back Agreement and the Operation and Maintenance Agreement are approved.
4. The Stipulation of the parties dated June 20, 2003 (Exh. Joint-1), is accepted and approved, and is attached and incorporated by reference. Compliance with all terms of the Stipulation is required, and Citizens shall make all filings required by the Stipulation.
5. The Board has jurisdiction to resolve those disputes arising under the Stipulation which address matters that are not within the jurisdiction of the Federal Energy Regulatory Commission. Paragraph 11 of the Stipulation shall be construed to be consistent with this Order.

Dated at Montpelier, Vermont, this 19th day of August, 2003.

<u>s/Michael H. Dworkin</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: August 19, 2003

ATTEST: s/Judith C. Whitney

Deputy Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.